

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED 27.07.2017

CORAM

THE HON'BLE Mr.JUSTICE A.SELVAM
and
THE HON'BLE Mr.JUSTICE P.KALAIYARASAN

H.C.P.No.732 of 2017

Mallika

.. Petitioner

Vs

1.The District Collector and District Magistrate
Cuddalore District
Cuddalore

2.The Secretary to the Government of Tamil Nadu
Home, Prohibition and Excise Department
Secretariat, Chennai - 9

.. Respondents

Petition filed under Article 226 of the Constitution of India, praying to issue a WRIT OF HABEAS CORPUS, to call for the records in connection with the order of detention passed by the first respondent dated 05.04.2017 in C3/D.O/10/2017 and direct production of detenu Ramesh, S/o.Subramaniyan, presently detained in Central Prison, Cuddalore before this Court and set him at liberty.

For Petitioner : Mr.A.M.Rahamath Ali

For Respondents : Mr.V.M.R.Rajentran
Additional Public Prosecutor

O R D E R

[Order of the Court was made by A.SELVAM, J.]

This Habeas Corpus Petition has been filed under Article 226 of the Constitution of India praying to call for the records relating to the detention order passed in Memo No. C3/D.O/10/2017 dated 05.04.2017, against the detenu by name, Ramesh, aged 33 years, S/o.Subramaniyan, residing at Vanniyar Street, M.Kolakudi Village, Kattumannarkoil Taluk, Cuddalore

District and quash the same.

2. The Inspector of Police, Kattumannar Koil Police Station, as Sponsoring Authority, has submitted an affidavit to the Detaining Authority, wherein, it is averred to the effect that the detenu has involved in the following adverse cases:

1. Kattumannar Koil Police Station, Crime No.432 of 2016, registered under Sections 457 & 380 of Indian Penal Code;
2. Cuddalore O.T Police Station, Crime No.727 of 2016, registered under Section 397 of Indian Penal Code;
3. Kattumannar Koil Police Station, Crime No.108 of 2017, registered under Sections 457 & 380 of Indian Penal Code;
4. Kumaratchi Police Station, Crime No.21 of 2017, registered under Sections 457 and 380 of Indian Penal Code; and
5. Kattumannar Koil Police Station, Crime No.105 of 2017, registered under Sections 457 and 380 of Indian Penal Code.

3. Further it is averred that in the affidavit that on 08.03.2017, one Elangovan, S/o.Pattusamy, residing at Kalliamman Koil Street, Thondamanatham Village, Muttam Post, Kattumannarkoil Taluk, as defacto complainant, has given a complaint in Kattumannarkoil Police Station, wherein it is alleged to the effect that in the place of occurrence the detenu has forcibly taken a sum of Rs.500/- and also an old mobile phone from the custody of the defacto complainant by showing a deadly weapon and consequently, a case has been registered in Crime No.110 of 2017 under Sections 397, 392 and 506(ii) of Indian Penal Code and ultimately, requested the Detaining Authority to invoke Act 14 of 1982 against the detenu.

4. The Detaining Authority, after considering the averments made in the affidavit and other connected documents, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately branded him as "Goonda" by way of passing the impugned Detention Order and in order to quash the same, the present petition has been filed by the mother of the detenu, as petitioner.

5. On the side of the respondents, a counter has been filed, wherein, it is contended to the effect that most of the averments made in the petition are false and the Sponsoring Authority has submitted all the relevant materials to the Detaining Authority and the Detaining Authority, after perusing the relevant materials supplied to him and other connected papers, has derived a subjective satisfaction to the effect that the detenu is a habitual offender and ultimately, branded him as goonda by way of passing the impugned detention order and the same does not call for any interference and therefore, the present petition deserves to be dismissed.

6. The learned counsel appearing for the petitioner has contended to the effect that on the side of the detenu, a representation has been given, but the same has not been disposed of without delay and therefore, the Detention Order in question is liable to be quashed.

7. Per contra, the learned Additional Public Prosecutor has contended that the representation submitted on the side of the detenu has been duly disposed of without delay and therefore, the contention urged on the side of the petitioner is liable to be rejected.

8. On the side of the respondents, a proforma has been submitted, wherein, it has been clearly stated that in between column Nos.7 and 9, 8 clear working days are available and in between column Nos.12 and 13, 23 clear working days are available and no explanation has been given on the side of the respondents with regard to such huge delay and that the same would affect the rights of the detenu guaranteed under Article 22(5) of the Constitution of India and therefore, the Detention Order in question is liable to be quashed.

9. In fine, this Habeas Corpus Petition is allowed and the Detention Order dated 05.04.2017 passed in C3/D.O/10/2017 by the first respondent against the detenu by name, Ramesh, aged 33 years, S/o.Subramaniyan, residing at Vanniyar Street, M.Kolakudi Village, Kattumannarkoil Taluk, Cuddalore District is quashed and directed to set him at liberty forthwith unless he is required to be incarcerated in any other case.

Sd/-
Assistant Registrar(AS)

//True Copy//

सत्यमेव जयते
Sub Assistant Registrar

gpa

To

1.1.The District Collector and District Magistrate
Cuddalore District
Cuddalore

2. The Principal Secretary to the Government
Home, Prohibition and Excise Department
Secretariat
Chennai - 600 009

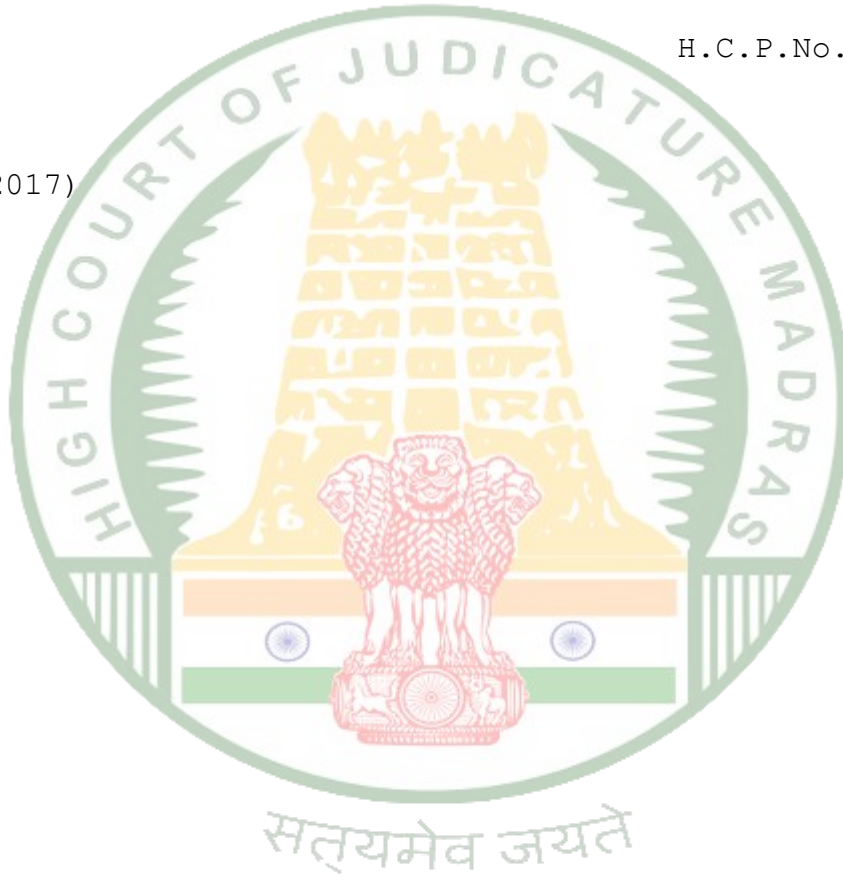
3.The Superintendent,
Central Prison,
Cuddalore.

4.The Joint Secretary to Government,
Public (Law & Order) Fort St.George,
Chennai-600 009.

5.The Public Prosecutor,
High Court, Madras.

H.C.P.No.732 of 2017

GJII(CO)
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